

ST 03-0087-GIL 07/08/2003 DELIVERY CHARGES

Shipping and handling charges, are not taxable if it can be shown that the charges are agreed to separately from the selling price of the tangible personal property sold and the charges are actually reflective of the costs of shipping. See 86 Ill. Adm. Code 130.415. (This is a GIL.)

July 8, 2003

Dear Xxxxx:

This letter is in response to your letter dated February 4, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I recently attended a home party & purchased the product. My question was I charged the correct amount for sales tax.

I am questioning the tax on shipping & handling. Since it is shown on a separate line & not included in the original price, I feel it is not taxable.

I pay my fair share of sales tax, but this is not correct.

If these people are collecting this tax in error are they remitting it to the state of Illinois. Please check this & let me know your ruling.

For your information and reference please find enclosed a copy of the Department's regulation on treatment of transportation and delivery charges under the Retailers' Occupation Tax Act, 86 Ill. Adm. Code 130.415. As you can see from the regulation, transportation and delivery charges, also designated as shipping and handling charges, are not taxable if it can be shown that the charges are agreed to separately from the selling price of the tangible personal property sold and the charges are actually reflective of the costs of shipping. To the extent the transportation and delivery charges exceed the costs of shipping, the charges will be subject to tax.

As noted in subsection (d) of Section 130.415, if the seller and the buyer agree upon the transportation or delivery charges separately from the selling price of the tangible personal property which is sold, then the cost of the transportation or delivery service is not a part of the "selling price" of the tangible personal property which is sold, but instead is a service charge, separately contracted for, and need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability. Delivery charges are deemed to be agreed upon separately from

the selling price of the tangible personal property being sold so long as the seller requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the costs of shipping, transportation or delivery, the charges are subject to tax.

The best evidence that transportation or delivery charges were agreed to separately and apart from the selling price, is a separate and distinct contract for transportation or delivery. However, documentation which demonstrates that the purchaser had the option of taking delivery of the property, at the seller's location, for the agreed purchase price, or having delivery made by the seller for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice.

The invoice that accompanied your letter provides that a shipping and handling charge must be included on all orders. It appears that there was no option for you to pick up your order at the seller's location or make other shipping arrangements. As a result, it was proper to tax the shipping and handling charge.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

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